

MINUTE ENTRY - P/T Conf & Ord Transferring Actions to Dist Crt of Guam re CV01-4538(h), dtd 10/01/01 - T/Crt notes that dfts suggest a "reverse bifurcation". Trial judge in Guam shall determine what it is & whether he or she will adopt t/suggestion. To the Crt's knowledge, ther is nothing to bifurcate, since liability is not in issue and only damages are at issue

CLERK'S Cert of Transmittal of t/following:

5/21/01 1 COMPLAINT filed Summons(es) Issued referred to Discovery Charles F. Eick (pc) [Entry date 05/23/01] [2:01cv4538]

5/21/01 2 NOTICE OF INTERESTED PARTIES filed by plaintiff Il Hwa Jung, plaintiff Won Ae Yim, plaintiff Uy Young Kim, plaintiff Jung Ja Kim, plaintiff Jong Myoung Kim, plaintiff Hye Ran Kim, plaintiff Young Jae Lee, plaintiff Jong Myoung Kim, plaintiff Young Jae Lee, plaintiff Ku Sung Rhee, plaintiff Kyung Sook Whitson (pc) [Entry date 05/23/01] [2 : 01cv4 538]

5/21/01 3 NOTICE by in re Air Crash At Agana of related case(s) CV 97-7023 HLH (RCx) & Other related groups. (kc) [Entry date 05/29/01] [2:01cv4538]

5/23/01 -- NOTICE OF FILING FEE DUE On Pro Hac Vice Application mailed to attorney Charles Herrmann f or plaintiff Kyung Sook Whitson (pc) [Entry date 05/23/01] [2:01cv4538]

6/4/01 4 PROOF OF SERVICE executed upon defendant USA on 5/25/01 by personal svc by delivering S/C to Laura Villa, Civil Cik, Agent for svc. (~p) [Entry date 06/05/01] [Edit date 06/07/01] [2:01cv4538]

6/5/01 5 ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 224 (Related Case) filed. [Related Case no.: CV 97-7023 HLH (RCx)] Case transferred from Judge IJickran Tevrizian to Judge Harry L. Hupp for all further proceedings. Case referred from Discovery Charles F. Eick to Discovery Rosalyn M. Chapman The case number will now reflect the initials of the transferee Judge [CV 01-4538 HLH (RCx)] (cc: all counsel) (kc) [Entry date 06/06/01] [2:01cv4538]

6/7/01 6 Proof of service of S/C, ntc of interested ptys executed on 5/25/01 srvd on John Ashcroft, US Atty General on behalf of USA by cert mail with domestic return receipt to Dept of Justice signed by Ernest Parker Supervisor. (tw) [Entry date 06/08/01] [2:01cv4538]

7/20/01 7 NOTICE OF MOTION AND MOTION by defendant USA to dismiss purs to FRCP 12(b) (1); motion hearing set for 10:00 8/13/01; Lodged Order (jp) [Entry date 07/23/01] [2:01cv4538]

7/20/01 8 MEMORANDUM OF POINTS & AUTH by defendant USA in suppt of motion to dismiss [7-11 (jp) [Entry date 07/23/01] [2 : 01cv4538]

7/20/01 9 DECLARATION of BARRY F. BENSON by defendant USA in suppt of motion to dismiss [7-1] (jp) [Entry date 07/23/01] [2: 01cv4538]

7/24/01 10 ANSWER filed by defendant USA to complaint [1-1] (pbap) [Entry date 08/01/01] [2:01cv4538]

7/27/01 11 NOTICE OF DISCREPANCY AND ORDER by Judge Harry L. Hupp dft USA s ans to plf s cmp rcd on 7/24/01 is to be filed and processed. (pbap) [Entry date 08/01/01] [2:01cv4538]

8/1/01 12 STIPULATION and ORDER by Judge Harry L. Hupp setting briefing sched and hrg date on the motion to dismiss [7-1] (pbap) [Entry date 08/03/01] [2:01cv4538]

8/3/01 13 MINUTES: The Crt ords the parties to show cause in writing nit 8/20/01 in writing why CV 98-6387 and the portion of CV 01-4538 pertaining to the claims to the Estate of Rhee, Hi Ra should not be consolidated and transferred to Guam for a damages trial by Judge Harry L. Hupp CR: Cynthia L. Mizell (pbap) [Entry date 08/07/01] [2:01cv4538]

8/3/01 14 MINUTES: ; IN COURT HEARING RE: setting briefing sched set on 10:00 9/5/01. An app must be filed by 8/22/01. Rply by 8/29/01. The Crt sets the briefing sched with respect to the United States mat to dismiss the following cmps: (1) Uy Young Kim and Jung Ja Kim re to Cv 98-2243(b) (Estate of Do Yeun Kim); (2) Ii Hwa Jung and Won Ae Yim relating to CV 98-2243(c) (Estate of Sun Mi Jung); (3) Jong Myoung Kim and Rye Ran Kim relaing to CV 98-2243(d) (Estate of Woo Kyoung Kim); and (4) Young Jae Lee relating to CV 98 2243(d) (Estate of Yoo Kyoung Kim) by Judge Harry L. Hupp CR: not present (pbap) [Entry date 08/07/01] [2 : 01cv4538]

8/22/01 15 OPPOSITION by plaintiff to motion to dismiss [7-11 (pbap) [Entry date 08/24/01] [2:01cv4538]

8/22/01 16 DECLARATION of Juanita M. Madole by plaintiff re in support of app to motion to dismiss [7-11 (pbap) [Entry date 08/24/01] [2:01cv4538]

8/24/01 17 MINUTES: Vacating Scheduling order to show cause in writing nit 8/20/01 [13-1], [13-21 issued on 8/3/01. The ptys have stip to the consolidated of those portions of CV 01-4538 and CV 98-6387 pertaining to the clms to the Estate of Ree, Hi Ra. Consolidation of these mtrs is hereby ord by the crt. Following the pretrial conf, the consolidated actn will be transferred to Guam for damages trial. The ptys are ord to submit all pretrial conf papers by 9/10/01. If the crt approves the pretrial papers as submitted, the ptys need not appear on 9/17/01. The US should confirm that it has accepted liability for the consolidated case; Pretrial conference on 11:00 9/17/01, Case consolidated by Judge Harry L. Hupp CR: Cynthia Mizell (tw) [Entry date 08/28/01] [2: 01cv4538]

8/29/01 18 REPLY by dft USA in suppt of motion to dismiss purs to F.R.Civ.P. 12 (b) (1) [7-1] . (gk) [Entry date 09/04/01] [2: 01cv4538] i rc.i-UN r

9/5/01 19 ORDER by Judge Harry L. Hupp granting dft USA S motion to dismiss [7-1], terminating party Young Jae Lee, party Hye Ran Kim, party Jong Myoung Kim, party Jung Ja Kim, party Uy Young Kim, party Won Ae Yim, party Il Hwa Jung (ENT 9/6/01) , mid ntcs. (tw) [Entry date 09/06/01] [2: 01cv4538]

9/5/01 20 MINUTES: Mot to dismiss. Cases CV98 2243 (c) (b) (d) and 98-6638 as to Serco s liability will need a pretrial conf for liability trial in the Central Dist. That pretrial conf is set for 9/26/01 at 9:00. It is contemplated that these cases will be transferred to another judge in this dist f or liability trial at the conclusion of the pretrial conf; by Judge Harry L. Hupp CR: Cynthia Mizell (tw) [Entry date 09/06/01] [2:01cv4538]

9/14/01 21 Pretrial Conf ORDER by Judge Harry L. Hupp, pretrial conference on 1:30 9/17/01 (tw) [Entry date 09/17/01] [2 : 01cv4538]

9/14/01 22 MINUTES: Proceedings: PTC ORD. The jnt pretrial conference order in the consolidated cases CV 98-6387 and CV 01-4538(g) is approved, signed and filed this date. This minute order comprises a portion of the PTC ords in this case along with the PTC ord previously signed and the jnt exhibit list, separate witness lists contentions, the crt s summary

of Korean damage law, and suggested model jury instructions. These matters are now transferred at the District of Guam pursuant to the provision of the Federal Tort Claims Act, as previously decided by the crt. The trial is to be a damages trial only, the United States having accepted liability, and having agreed to defend and indemnify the other defendant Serco.; pretrial conference set for 9/17/01 is removed from the calendar and the PTC Order is signed and filed this date by Judge Harry L. Hupp CR: Cynthia L. Mizell (pbap) [Entry date 09/19/01] [2: 01cv4538]

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9/17/01 23 MINUTES: Proceedings: OSC re failure to comply with Local Rule 9. Order: None of the documents required by Local Rule 9 has been filed. The following documents required by Rule 9 has not been filed: original joint pretrial order (fax copy received 9/14/01 at 5:30pm); pretrial conference continued on 10:00 10/1/01; Plaintiffs are to show cause why this action should not be dismissed for lack of prosecution; Defendants are ordered to show cause why the answer and counter claim should not be stricken and default entered. Plaintiff and defendants are to show cause why sanctions should not be assessed. All documents including all Rule 9 documents, if the action is allowed to proceed, must be filed on or It now appears that cv 98-2243(d) needs to be further severed. The portion of cv 2243(d) dealing with the death of decedent Kim, Yoo Kyoung is now severed from the balance of cv 98-2243(d) and is given the designation CV 98-2243 (d) (1) . The portion of cv 98-2243 (d) relating to death of Kim, Woo Kyoung is now designated as action no cv 98-2243 (d) (2) . CV 98-2243 (d) (1) has previously been consolidated with cv 01-4538(h) and will be transferred to the District of Guam for trial. Case no CV 98-2243 (d) (2) (Kim, Woo Kyoung) is not concerned with this case and will have a pretrial for liability issues at a later date (the trial to be in this district), by Judge Harry L. Hupp CR: Cynthia Mizell (shb) [Entry date 09/24/01] [2:01cv4538]

9/24/01 24 RESPONSE by defendant USA to OSC [23-2] (dw) [Entry date 09/26/01] [2:01cv4538]

10/1/01 26 MINUTES: The PTC and ORD transferring actions to District of Guam for Trial. The PTC order in the consolidated actions is signed and filed this date. The consolidated actions are ordered transferred to the District of GUAM by this mm order. All OSCs are vacated, the responses being satisfactory. The crt also notes that this case is to be distinguished from the action involving the decedent Kim, Woo Kyoung, No. CV 98-2243 (d) (2), who was a different person, with the action involving that different person being retained in the Central District (because the US was not a defendant in that action and, therefore, the Tort Claims Act venue provisions did not apply). This clarification is set forth here in an attempt to avoid confusion in the District of Guam. On arrival of this case in GUAM, the crt believes that Judge Unpingco will set a status conference, Case transferred to District of Guam by Judge Harry L. Hupp CR: Cynthia L. Mizell **see mm order for additional info. (ENT 10/4/01) mld cpys & ntc MD JS 6 (pbap) [Entry date 10/04/01] [2:01cv4538]

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10/3/01 25 NOTICE OF APPEAL by plaintiff Ii Hwa Jung, plaintiff Won Ae Yim, plaintiff IJy Young Kim, plaintiff Jung Ja Kim, plaintiff Jong Myoung Kim, plaintiff Hye Ran Kim, plaintiff Young Jae Lee, plaintiff Jong Myoung Kim, plaintiff Young Jae Lee, plaintiff Ku Sung Rhee, plaintiff Kyung Soak Whitson to 9th C/A from District. Court order filed 9/5/01 & entered 9/6/01 [19-2] (cc: Juanita N Madole, Charles Herrmann, Condon & Forsyth, Barry Benson) Fee: Billed (dl) [Entry date 10/03/01] [2:01cv4538]

10/3/01 27 MINUTES: The clerk of the crt should proceed to transfer to GUAM the following cases: CV 98-6387 and CV 01-4538 by Judge Harry L. Hupp CR: not present. (ENT 10/4/01) mid cpys & ntc (pbap) [Entry date 10/04/01]

[2:01cv4538]

10/4/01 -- TRANSMITTAL of documents orig file, cc docket & ord to
the District of GUAM. (pbap) [Entry date 10/04/01] [2 : 01cv4538]
; [cbw EOD 11/07/2001]